

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DAVID DEKOTAL SHARPE,

Plaintiff,

v.

CIVIL ACTION NO. 5:16-cv-03841

NANCY A. BERRYHILL¹,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By *Standing Order* (Document 5) entered on April 25, 2016, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On April 10, 2017, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 14) wherein it is recommended that: the Plaintiff's request for judgment on the pleadings (Document 9) be granted to the extent that it requests remand of the Commissioner's decision; the Defendant's request to affirm the decision of the Commissioner (Document 12) be denied; the final decision of the Commissioner be reversed; the matter be remanded pursuant to sentence six of 42 U.S.C. § 405(g) for further administrative proceedings; the case be closed statistically and placed on the Court's inactive docket, subject to reopening statistically upon motion of either party pending the outcome of the administrative proceedings.


¹At the time this civil action was filed, Carolyn W. Colvin was serving as the Acting Commissioner of Social Security.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by April 27, 2017, and none were filed by either party. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (holding that districts courts may adopt proposed findings and recommendations without explanation in the absence of objections).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*. The Court **ORDERS** that: the Plaintiff's request for judgment on the pleadings (Document 9) is **GRANTED** to the extent that it requests remand of the Commissioner's decision; the Defendant's request to affirm the decision of the Commissioner (Document 12) is **DENIED**; the final decision of the Commissioner is **REVERSED**; this matter is **REMANDED** pursuant to sentence six of 42 U.S.C. § 405(g) for further administrative proceedings; the case is **CLOSED** statistically and **PLACED** on the Court's inactive docket, subject to reopening statistically upon motion of either party pending the outcome of the administrative proceedings.

The Court **DIRECTS** the Clerk to send a certified copy of this *Memorandum Opinion and Order* to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: May 1, 2017


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA